

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JAMES BENBOW,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER BRIAN
FEELEY, POLICE OFFICER MATTHEW ROSIELLO,
POLICE OFFICER KENNETH ANDERSON,
SERGEANT WILLIAM DIAB, DETECTIVE SHANIEL
MITCHELL, AND POLICE OFFICER STEPHEN
MINUCCI,

Defendants.
-----X

**REPLY DECLARATION OF
ZACHARY KALMBACH IN
FURTHER SUPPORT OF
DEFENDANTS' MOTION
FOR SUMMARY
JUDGMENT**

17-CV-06457 (EK) (JRC)

ZACHARY KALMBACH, an attorney duly admitted to practice in the State of New York and in this Court, declares, pursuant to 28 U.S.C. §1746, under penalty of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the Office of Georgia M. Pestana, Corporation Counsel of the City of New York, attorney for defendants City of New York, Police Officer Kenneth Anderson, Sergeant William Diab, Police Officer Brian Feeley, Police Officer Stephen Minucci, Detective Shaniel Mitchell, and Police Officer Matthew Rosiello. As such, I am familiar with the facts and circumstances stated herein and submit this declaration in further support of defendants' Motion for Summary Judgment pursuant to Fed. R. Civ. P. 56.

2. Annexed hereto as Exhibit AB is a true and correct copy of a photograph of plaintiff, taken on March 7, 2015, which depicts one gunshot wound on the right side of plaintiff's body and no gunshot wounds to his back.

3. Annexed hereto as Exhibit AC is a true and correct copy of an excerpt of the December 7, 2020 Deposition Transcript of defendant Police Officer Brian Feeley, which demonstrates that he fired three shots quickly, one after the other.

Dated: New York, New York
October 1, 2021

GEORGIA M. PESTANA
Corporation Counsel of the City of New York
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Kenneth Anderson, Sergeant William Diab, Police
Officer Brian Feeley, Police Officer Stephen
Minucci, Detective Shaniel Mitchell, and Police
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By: /s/ Zachary Kalmbach
Zachary Kalmbach
Assistant Corporation Counsel
Special Federal Litigation

cc: **Via ECF**
Aymen Aboushi, Esq.
Attorney for Plaintiff